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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,920	10/30/2003	Craig Henry Becker	AUS920030827US1	9648

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EXAMINER
SAUNDERS JR, JOSEPH

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/697,920	BECKER, CRAIG HENRY
Office Action Summary	Examiner	Art Unit	
	Joseph Saunders	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>*30 October 2003*</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-22* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-22* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>*30 October 2003*</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a) ☐ All   b) ☐ Some * c) ☐ None of:

    1. ☐ Certified copies of the priority documents have been received.

    2. ☐ Certified copies of the priority documents have been received in Application No. _____.

    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date <u>*10-30-03*</u>.

4) ☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This is the initial office action based on the application filed October 30, 2003.

Claims 1 – 22 are currently pending and considered below.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17 – 21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 17 is seeking protection for a "computer program product" and such claimed computer programs do not define any structural interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed "computer-readable medium encoded with a computer program" is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. The specification also defines the "computer readable medium" including "radio frequency" and "light wave transmission" which is nonstatutory.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claim 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by

Bharati (Meditation and Self-Awareness CDs, http://swamij.com/cd-timer.htm) retrieved

from http://web.archive.org/ as it appeared on October 22, 2002, hereinafter Bharati.

Claim 8: Bharati discloses a method for indicating termination of a session, the method

comprising: selecting an optical disc (Meditation Timer CD) for a session of a selected

period of time ("the length of the four OM Timers: 5-Minute, 10-Minute, 20-Minute, 30-

Minute") wherein the optical disc has a track with a silent segment followed an audio

segment equal in length to the selected period of time, wherein the silent segment is

longer than the audio segment ("This CD is extremely simple. It is like a clock, an "OM

Clock" in which there is the voice of a single OM, followed by complete silence, and

then ending with a single OM."); and playing the track on the optical disc using an

optical display player when the session begins ("All you have to do is click the track

number on your CD player that matches the length of time of the practice."), wherein

termination of the session is indicated when the audio segment is encountered (The

single OM at the end of the track indicates the end of mediation time.).

Claim 9: Bharati discloses the method of claim 8, and Bharati further discloses wherein

the selected period of time is 15 minutes, 30 minutes ("30-Minute"), 45 minutes, or 60

minutes.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Bharati.

Claim 10: Bharati discloses the method of claim 8, but *does not disclose* wherein the

silent segment is 59 minutes long and the audio segment is 1 minute long for a 60

minute session. It would have been an obvious matter of design choice to include a

silent segment of any duration followed by an audio segment of any duration, since the

only purpose of the audio segment is to indicate the end of a period of time and

therefore it appears that the method would perform equally well with silence and audio

segments of any duration, for example the long period of silence followed by an "OM"

totaling 5, 10, 20, and 30 minutes as disclosed by Bharati.

Claim 11: Bharati discloses the method of claim 8 but *does not disclose* the method

further comprising: counseling a client during the length of the session. It would have

been an obvious matter of design choice to counsel a client during the length of the

session since the propose of the invention is to indicate the end of a period of time and

therefore it appears as if the method would perform equally well if one were performing

another act during the session, for example meditating as discloses by <u>Bharati</u>.

7.   Claims 1, 3 – 7, 12, 14 – 17, and 19 – 22 are rejected under 35 U.S.C. 103(a) as

being unpatentable over <u>Bharati</u> in view of James (US 6,910,038 B1), hereinafter

<u>James</u>.

Claims 1, 12, 17, and 22: <u>Bharati</u> discloses a method in a data processing system for

indicating an end of a session, the method comprising: an audio file that has a length

equal to a length of a session ("the length of the four OM Timers: 5-Minute, 10-Minute,

20-Minute, 30-Minute"), wherein the audio file includes a silent segment followed by an

audio segment ("This CD is extremely simple. It is like a clock, an "OM Clock" in which

there is the voice of a single OM, followed by complete silence, and then ending with a

single OM.") and wherein the audio segment provides an indication of the end of the

session when encountered during playing of the audio file (The single OM at the end of

the track indicates the end of mediation time.). <u>Bharati</u> *does not disclose* receiving an

identification of a session from a data structure containing a schedule; and responsive

to receiving the identification of the session, creating an audio file on a storage medium.

Since <u>Bharati</u> discloses the product of a CD containing an audio file that has a length

equal to a length of a session, wherein the audio file includes a silent segment followed

by an audio segment and wherein the audio segment provides an indication of the end

of the session when encountered during playing of the audio file but does not disclose

how to make such a CD, one would be inclined to look elsewhere for such a teaching.

James discloses a process, an apparatus, a system, a device, a method, and a

computer readable media (Column 3 Lines 3 – 6) for recording to an optical media and

further discloses, "Optical disc recording commonly involves recording (sometimes

referred to as "burning) audio tracks or data files on one or more spiral tracks on an

optical disc, Column 1 Lines 26 – 30. Although not explicitly disclosed a host system

(computer system) contains a bus as illustrated in Figure 2A connecting the blocks 102,

202, 204, 112, and 114, a memory stores the CD recording software application or

instructions connected to the bus, and processing occurs based on the instructions

therefore a processing unit is also present in order to complete the task of recording an

optical disc (Column 1 Line 36 – Column 2 Line 30). James also discloses, "the ordering

data structures (schedule) are passed from the file system database block 202 (data

structure) to the CD recording engine 204 in the order in which the associated data files

(sessions) will be written to the optical disc. In one embodiment, the CD recording

engine 204 then follows the pointers (identification of a session) of the ordering data

structures (schedule) and begins reading the data files (sessions) into the optical CD

recording circuitry 112. It is the CD recording circuitry 112 that accomplishes the actual

writing or burning of the data files (sessions) to the optical disc 114," Column 7 Lines 26

– 36.

Therefore it would have been obvious to one of ordinary skill in the art at the time

of the invention to make a CD containing an audio file that has a length equal to a

length of a session, wherein the audio file includes a silent segment followed by an audio segment and wherein the audio segment provides an indication of the end of the session when encountered during playing of the audio file as disclosed by <u>Bharati</u> using the method disclosed by <u>James</u> where after receiving an identification (pointer) of a session (data file) from a data structure (file system database block) containing a schedule (ordering data structure), creating an audio file on a storage medium (CD) since using the <u>James'</u> teaching "provides for a method for processing files that minimizes the generation of lists that catalog location and attribute information about each data file before writing to the optical disc media," Column 2 Line 66 – Column 3 Line 2.

Claims 3, 14, and 19: <u>Bharati</u> and <u>James</u> disclose the method, processing system, and computer program of claims 1, 12, 17, and 22, and <u>James</u> further discloses wherein the receiving step comprises: receiving an identification of the session from a scheduling program (Column 3 Lines 25 – 37).

Claims 4, 15, and 20: <u>Bharati</u> and <u>James</u> disclose the method, processing system, and computer program of claims 1, 12, 17, and 22, and <u>Bharati</u> further discloses wherein the storage medium is one of a compact disc ("CD"), a digital versatile disc, a flash memory, or an audio tape.

Claims 5, 16, and 21: Bharati and James disclose the method, processing system, and
computer program of claims 1, 12, 17, and 22, and Bharati further discloses wherein the
audio segment is music (the chant "OM").

Claim 6: Bharati and James disclose the method of claim 1, but *do not disclose* wherein
the silent segment is 59 minutes long and the audio segment is 1 minute long for a 60
minute session. It would have been an obvious matter of design choice to include a
silent segment of any duration followed by an audio segment of any duration, since the
only purpose of the audio segment is to indicate the end of a period of time and
therefore it appears that the method would perform equally well with silence and audio
segments of any duration, for example the long period of silence followed by an "OM"
totaling 5, 10, 20, and 30 minutes as disclosed by Bharati.

Claim 7: Bharati and James disclose the method of claim 1, and Bharati further
discloses wherein a plurality of audio files are created on the optical disc ("There are
five tracks on the CD.") in which each audio file corresponds to a session for a user
("the length of the four OM Timers: 5-Minute, 10-Minute, 20-Minute, 30-Minute" and "All
you have to do is click the track number on your CD player that matches the length of
time of the practice.").

8.   Claims 2, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Bharati and James in view of Johnson et al. (US 2003/0151618 A1), hereinafter

Johnson.

Claims 2, 13, and 18: Bharati and James disclose the method, processing system, and

computer program of claims 1, 12, 17, and 22, but *do not disclose* wherein the data

structure is a file for a calendar program. Johnson discloses "preparing commonly

accessed data for presentation in a familiar format, and more particularly, to building

media playlists from various types and associating the playlists with a common user

interface on a media player," Paragraph 2. Johnson further discloses where "in general,

playlists 220 and 22 are customized lists of content that contain files (or point to files)

specified by a user for playback on a media player 102," and goes on that "a user can

define a playlist that includes a digest of stories from news-oriented Web site, emails

from an email inbox, appointments from a calendar, and so on," Paragraph 48. Figure 7

further illustrates "an audio file playlist 222 of "Calendar" appointment playlist entries

taken from the XML-formatted text playlist 224 of Fig. 6," Paragraph 57. Therefore it

would have been obvious to one of ordinary skill in the art at the time of the invention to

prepare the playlist of Bharati and James using a "Calendar" as disclosed by Johnson

enabling audio tracks to be burned from the playlist where the playlist corresponds to

appointment times from a calendar program, thereby permitting easy access and

reducing the level of user interaction needed to prepare such commonly accessed data

(Paragraph 8).

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Joseph Saunders whose telephone number is (571)

270-1063. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. -

4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS
April 24, 2007

SINH TRAN
SUPERVISORY PATENT EXAMINER